

# THE PRESENT JUVENILE PROBATION PICTURE: A PATCHWORK DESIGN

---

Adult and juvenile probation services in the United States trace their roots to a common origin, but generally, formal and informal probation services for juveniles actually preceded the development of adult probation. The juvenile justice field has experienced shifts in philosophies and approaches, and juvenile probation services today are different from one locality to another. The array of juvenile probation configurations across the country provides a patchwork design rather than a consistent image. Juvenile probation agencies have adopted a variety of missions, provide vastly different services, work with diverse clients, and take varying approaches to service delivery. Still, there are similarities among various probation agencies, and they generally share similar overall goals. This section explores both the similarities and differences in State juvenile probation services across the country.

It examines the organization and delivery of probation services and discusses some of the issues and problems currently facing the profession.

Roberts (1998, pp. 131-132)

*The term probation, as defined by Shireman (1971:191) is "a legal status created by order of the sentencing court as an alternative to incarceration."*

*According to Sullenger (1936), the term probation is derived from probare, meaning "to prove," that is, it allows the juvenile offender the opportunity to prove himself.*

## Historical Roots

John Augustus, a Boston shoe cobbler, is credited as the "Father of Probation." In 1841 he persuaded the Boston Police Court to release an adult drunkard into his custody rather than sending him to prison -- the prevalent means of dealing with law violations at that time. His efforts at reforming his first charge were successful, and he soon convinced the court to release other offenders to his supervision. However, this first unofficial probation officer did not perform his altruistic work without controversy. His efforts actually were resisted by police, court clerks, and turnkeys who were paid only when offenders were incarcerated (Klein, 1997).

In 1843, Augustus broadened his efforts to children when he took responsibility for two girls, ages eight and ten, and an 11-year-old boy, all of whom had been accused of stealing. By 1846, he had taken on the supervision of about 30 children ranging from nine to 16 years old (Binder, Geis, & Bruce, 1997). In his own words he describes his ongoing work with children before the court:

In 1847, I bailed nineteen boys, from seven to fifteen years of age, and in bailing them it was understood, and agreed by the court, that their cases should be continued from term to term for several months, as a season of probation; thus each month at the calling of the docket, I would appear in court, make my report, and thus the cases would pass on for five or six months. At the expiration of this term, twelve of the boys were brought into court at one time, and the scene formed a striking and highly pleasing contrast with their appearance when first arraigned. The judge expressed much pleasure as well as surprise, at their appearance, and remarked, that the object of the law had been accomplished, and expressed his cordial approval of my plan to save and reform. Seven of the number were too poor to pay a fine, although the court fixed the amount at ten cents each, and of course I paid it for them; the parents of the other boys were able to pay the cost, and thus the penalty of the law was answered. The sequel thus far shows, that not one of this number has proved false to the promises of reform they made while on probation. This incident proved conclusively, that this class of boys could be saved from crime and punishment, by the plan which I had marked out, and this was admitted by the judges in both courts.

(John Augustus, 1852, p. 34)

By Augustus' (1852) own account, he bailed "eleven hundred persons, both male and female." He also recounted that he had secured the release by the courts of many children:

" . . . of this number one hundred and sixteen were boys under sixteen years of age; eighty-seven were under the age of fourteen; twenty-seven were under twelve years, and four were only seven years old. Of this number only twelve were incorrigible, . . . I have always endeavored to send these persons to school, or some place of employment, and but two, to my knowledge, have stolen since I bailed them, and this shows that nine out of ten have behaved well. . ." (pp. 96-97).

By 1869, the Massachusetts legislature required a state agent to be present if court actions might result in the placement of a child in a reformatory, thus providing a model for modern caseworkers. The agents were to search for other placement, protect the child's interests, investigate the case before trial, and supervise the plan for the child after disposition. Massachusetts passed the first probation statute in 1878 mandating an official State probation system with salaried probation officers (National Center for Juvenile Justice [NCJJ], 1991). Other states quickly followed suit (NCJJ, 1991):

- by 1900, Vermont, Rhode Island, New Jersey, New York, Minnesota, and Illinois passed probation laws;
- by 1910, 32 more states passed legislation establishing juvenile probation
- by 1930, juvenile probation was legislated in every state except Wyoming

Today, probation is authorized in all States and is an integral part of the juvenile justice system. Many foreign nations also have adopted approaches based on the United States prototype.

## Structure and Delivery of Probation Services

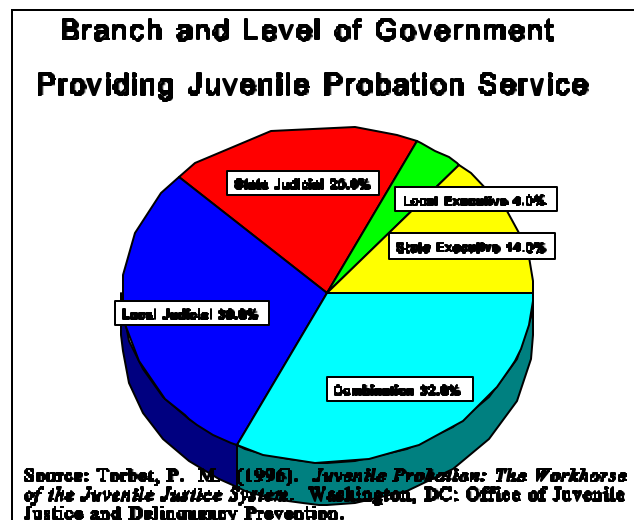
The administration of juvenile probation is organized differently among the States. Both the level of government (i.e., State or local) and the branch of government (i.e., executive or judicial) may vary. The five organizational options include (Krauth & Linke, 1999):

- State executive agencies,
- Local executive agencies,
- State judicial agencies,
- Local judicial agencies, and
- Combinations of these models within a state.

Figure 1 provides a depiction of the array of organizational structures currently used in juvenile probation. (See Table 1 in the Appendix for specific states in each category.)

The largest number of states (16/32%) provide probation services through various combinations of state and local administration within the executive and judicial branches. Fifteen states (30%) operated under the purview of the local judiciary, while 10 states (20%) are housed within the state judicial branch. In contrast to adult probation agencies, only seven states (14%) have their juvenile probation departments administered solely through the state executive branch, and two states (4%) are located exclusively at the local executive level (Torbet, 1996). More

**Figure 1**

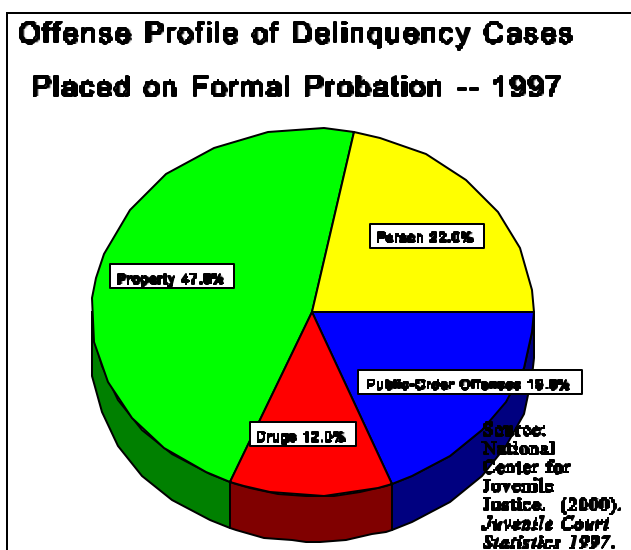


important than structural issues, however, is strong, well-informed leadership for a probation program.

## Types of Delinquency Cases Handled by Juvenile Probation

Nationally, in 1997, juvenile courts across the country handled 1,755,100 delinquency cases.

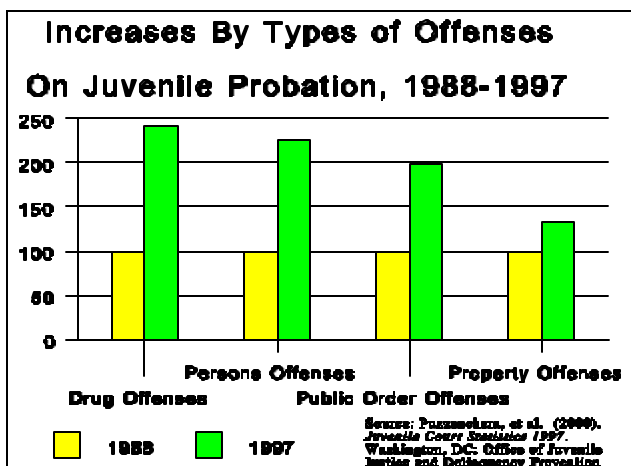
Figure 2



This represented a 48 percent increase in the number of delinquency cases handled by juvenile courts since 1988. Of the delinquency cases that were actually petitioned and adjudicated, 55 percent or 318,700 were placed on formal probation.

Figure 2 shows the range of the most serious types of offenses for which adjudicated delinquents were placed on probation. Property offenses (47%) were most likely to result in probation. However, youth committing person offenses (22%), public order offenses (19%) and drug offenses (12%) comprised substantial portions of the juvenile probation population (Puzzanchera, et al., 2000).

Figure 3



Juvenile probation not only handles those cases that are formally adjudicated and placed on probation (318,700 cases/49%), but, during 1997, 84,800 (13%) petitioned but nonadjudicated cases were placed on probation and 242,100 (38%) nonpetitioned cases were placed on probation. This resulted in a total of 645,600 juveniles on probation during 1997 (Puzzanchera, et al., 2000).

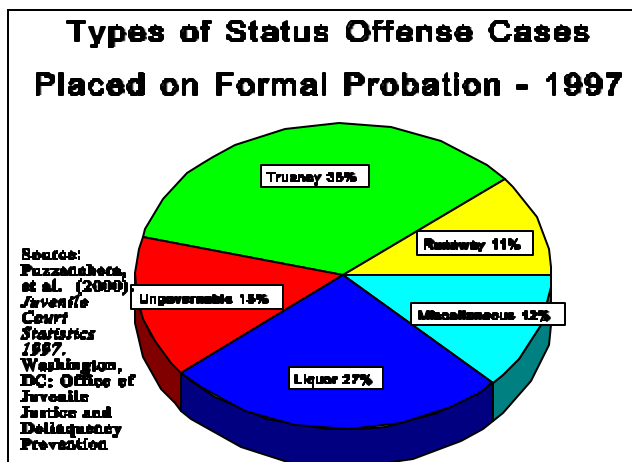
The volume of adjudicated delinquency

cases placed on formal probation increased by 67 percent between 1988 and 1997. Figure 3 shows the relative increases in the types of cases placed on juvenile probation between 1988 and 1997. Treating each of the categories as 100 percent in 1988, by 1997, drug offense cases placed on probation increased by 141 percent, person offenses increased by 125 percent, public order offenses increased by 98 percent, and property offenses increased by 32 percent (Puzzanchera, et al., 2000). Thus, the assumption may be made that juvenile probation is working with more difficult cases now than in the past.

### **Types of Status Offense Cases Handled by Juvenile Probation**

Youth may also come to the attention of the juvenile justice system for behavior that is not unlawful for adults. These status offenses include running away, being truant from school, liquor law violations, and being ungovernable, as well as other miscellaneous offenses. In 1997, 50,200 adjudicated youth and 7,200 nonadjudicated youth were placed on probation for status offenses. This represented a 63% increase in status offense cases placed on probation since 1988. Figure 4 shows the percentage of each of these cases that was placed on formal probation in 1997. Truancy cases and liquor law violations (35% and 27% respectively

**Figure 4**



comprise about two-thirds of the cases. The other one-third of cases were ungovernable behavior (15%), runaways (11%) and miscellaneous (12%) (Puzzanchera, et al., 2000). Increases were noted across all types of status offense cases between 1988 and 1997. Figure 5 shows the relative increases. Again, 1988 levels for each category are shown as 100% and the increases in each category are shown relative to that amount, indicating that, after the significant increase in miscellaneous cases, the most prominent trends are for increases in liquor law violations and truancy cases (Puzzanchera, et al., 2000).

## Probation Services

Juvenile probation agencies are responsible for a variety of tasks. These vary considerably from one State to another. They can be grouped, generally, into the following categories, each of which will be discussed briefly:

- Intake and investigation
- Supervision
- Provision of or referral to treatment and other services
- Monetary collections
- Services to victims
- Detention and residential services
- Family-related services

### Intake and Investigation

An important task for juvenile probation professionals occurs as offenders are placed on probation or even before they are adjudicated. In various locations, juvenile probation personnel have responsibilities for conducting pretrial investigations, presentence (pre-dispositional) investigations, and intake services, as well as assessing and classifying offenders. In some localities (usually larger agencies) these tasks are performed by probation professionals specializing in these areas, while in many other agencies, probation officers handle intake and investigation duties as well as other responsibilities. Figure 6 shows that in nearly all states (44/88%) juvenile probation agencies conduct presentence investigations, and in 34 states (68%) they also conduct pretrial investigations.

Thirty-four states (68%) report using a formal classification system for juvenile offenders on probation. Intake services are provided by 41 states (82%)

Figure 5

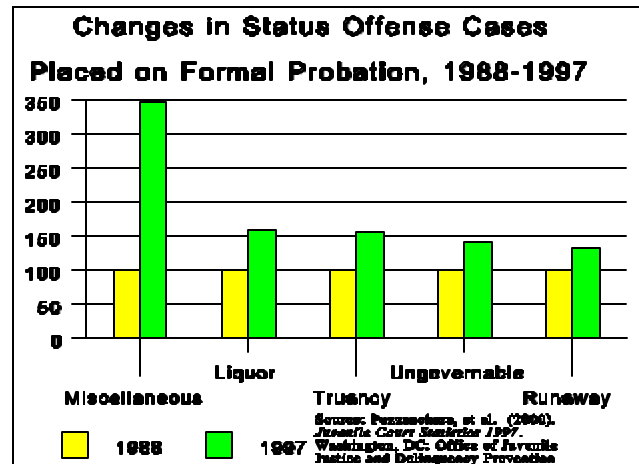
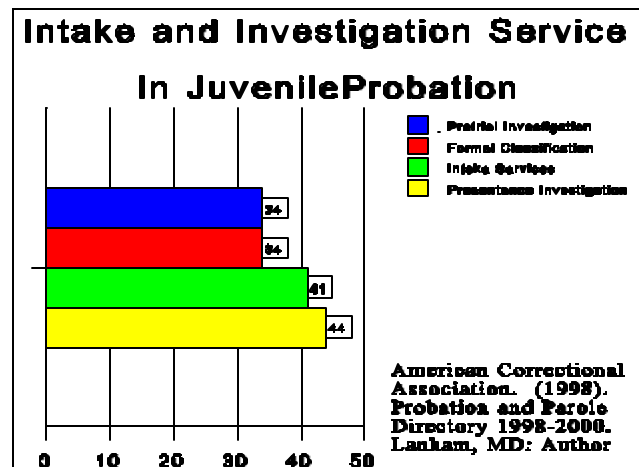


Figure 6



(American Correctional Association [ACA], 1998). Table 2 in the Appendix lists the specific states reporting activities in these areas. (Note that an activity is indicated for a state if it was reported at all within the state's probation services. Inclusion may not mean that the activity is conducted throughout the state.)

### Offender Supervision Services

A wide array of activities constitute supervision of offenders on probation. Again, there are significant differences in tasks performed both between and within States. However, Figure 7 shows the prevalence of six supervision activities frequently performed by juvenile probation agencies. Nearly all states (43 states/86%) provide intensive supervision services for some offenders. Supervised home release is a part of juvenile probation responsibilities in 39 states (78%). Some type of specialized caseload supervision is provided in 38 states (76%), although the types of caseloads (e.g., drug-involved offenders, gang members) varies considerably. Electronic monitoring is available for juvenile probationers in 36 states (72%). Community service is available in 35 states (70%). Thirty-five states (70%) used community service in their supervision practices. Ten states (20%) have specialized absconder units to track and return juveniles who have evaded supervision. (ACA, 1998). (Note that an activity is indicated for a state if it was reported at all within the state's probation services. Inclusion may not mean that the activity is conducted throughout the state.)

Figure 7

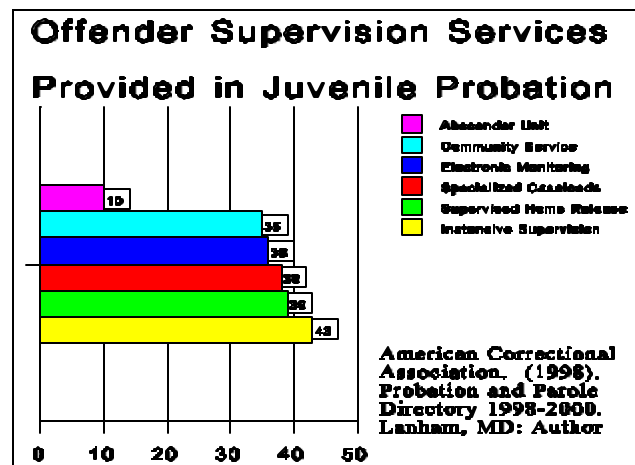


Table 3 in the Appendix provides a state-by-state list of the provision of these services through juvenile probation.

## Treatment and Referrals

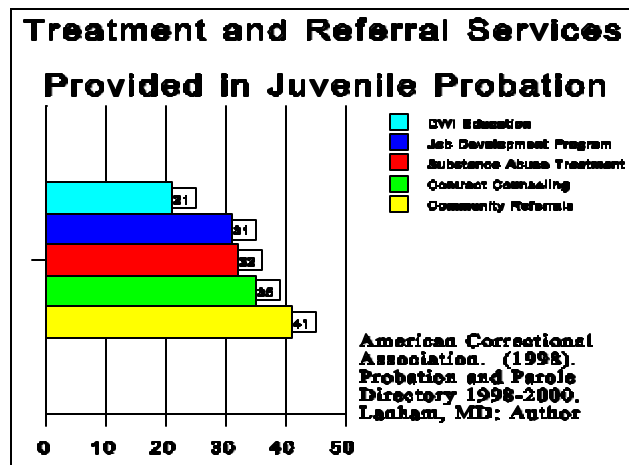
Many juvenile probation agencies either provide treatment and other services directly to offenders or (in most cases) refer them to appropriate community agencies. While a variety of services may be provided depending on locality, resources, and juveniles' needs, five are shown in Figure 8. Forty-one states (82%) reported juvenile probation agencies make community referrals.

Thirty-five states (70%) report contracting for counseling services for juvenile offenders. Recognizing the strong correlation between substance abuse and crime, almost two-thirds (32 states/64%) report providing or referring offenders to substance abuse treatment.

Thirty-one states (62%) report having job development programs. Forty-two percent (21 states) indicated providing DWI education programs (American

Correctional Association, 1998). (Note that an activity is indicated for a state if it was reported at all within the state's probation services. Inclusion may not mean that the activity is conducted throughout the state.) Table 4 in the Appendix provides information on States providing each of these services.

Figure 8

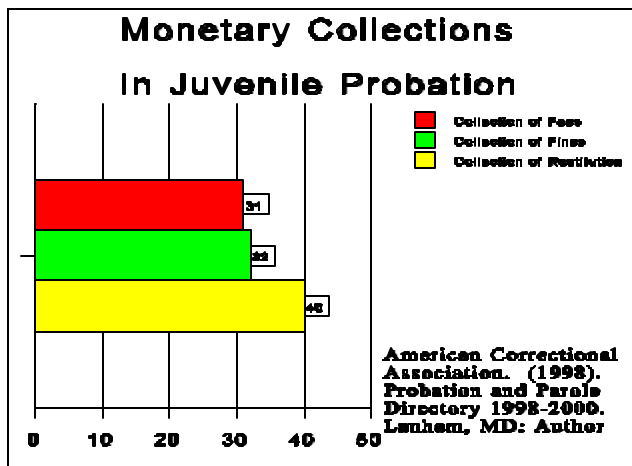


## Monetary Collections

Juvenile probation departments also are frequently involved in the collection of money from offenders for restitution, fees and fines. Even if probation agencies do not actually collect funds, they may be responsible for supervising offenders' monetary obligations and enforcement of payments. As shown in Figure 9, 40 states (80%) reported collecting restitution; 32 states (64%) collect fines; and 31 (62%) indicated they collect offender fees. (American Correctional Association, 1998). (Note that an activity is indicated for a state if it was reported at all within the state's probation services. Inclusion may not mean that the activity is conducted throughout the state.) Table 5 in the Appendix provides state-by-state information on monetary collections in Juvenile probation.



Figure 9



## Victims Services

Almost three-fourths of the states (36/72%) reported providing services for victims through juvenile probation according to the American Correctional Association (1998).

Inclusion of victims in the criminal justice system is increasingly recognized as an important component of a restorative justice approach.

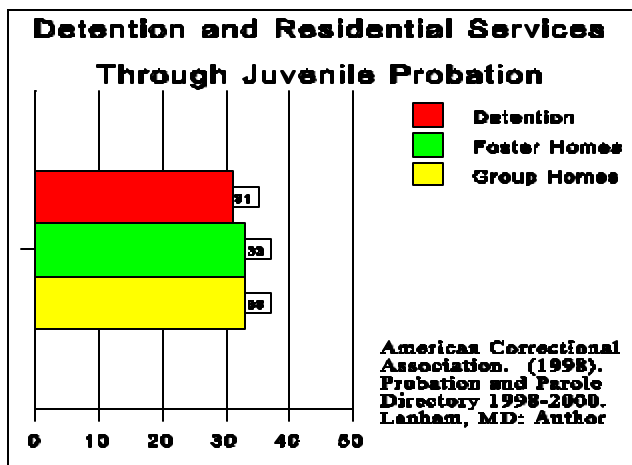
(Note that an activity is indicated for a state if it was reported at all within the state's probation services.

Inclusion may not mean that the activity is conducted throughout the state.) Table 6 in

the Appendix provides a list of states reporting the provision of victims services in adult probation.

## Detention and Residential Services

Figure 10



The majority of juvenile probation agencies (unlike most of their adult counterparts) are involved in the provision of detention and other residential services for youth. Two thirds of states (66%) indicated they provided services related to foster homes and group care homes for youth. Almost as many (31 states/62%) were involved in the provision of detention services through juvenile probation (American Correctional Association, 1998).

(Note that an activity is indicated for a state if it was reported at all within the state's probation services. Inclusion may not mean that the activity is conducted throughout the state.) Figure 10 depicts the involvement of states in detention and other residential services through their juvenile probation agencies and Table 7 in the Appendix provides a state-by-state summary of the information.

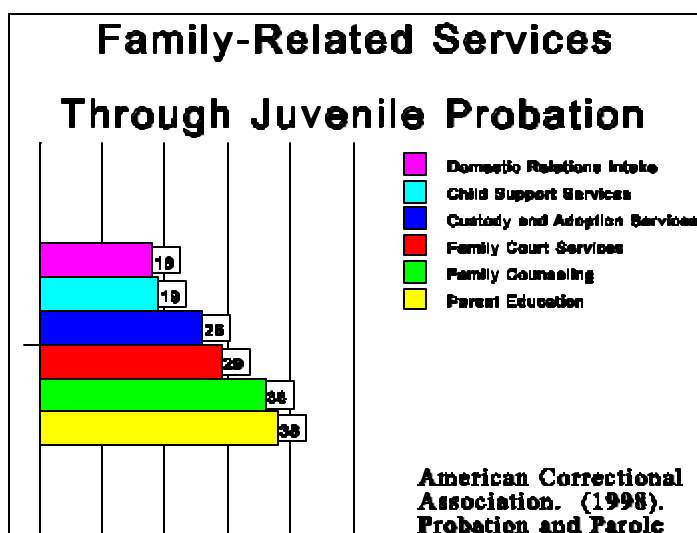
## Family-Related Services

Again, unlike adult probation, juvenile probation agencies often have responsibility for performing family-related services, as family issues often affect a youth's behavior. Six services were reported by various states in the American Correctional Association's Directory (1998). About two-thirds of the states provide parent education and family counseling (38 states/76% and 36 states/72% respectively) through juvenile probation agencies. Slightly more than half of the states have

juvenile probation agencies involved in family court services (29 states/58%) and custody and adoption services (26 states/52%). Just over one-third of the states report that juvenile probation agencies participate in child support services (19 states/38%) and domestic relations intakes (18 states/36%). (Note that an activity is indicated for a state if it was reported at all within the state's probation services. Inclusion may not mean that the activity is conducted throughout the state.)

Figure 11 illustrates the range of states' juvenile probation agencies involved in family-related services. Table 8 in the Appendix provides information about which states provide specific family-related services.

Figure 11



### **Most Commonly Available Programs**

In 1998, the National Center for Juvenile Justice conducted a survey of juvenile probation departments across the United States. Seventy-five percent or more of the responding jurisdictions (including rural, suburban, and urban areas) indicated that the following services were available for youth on probation.

- probation supervision
- drug testing
- restitution
- community service
- family counseling
- drug and alcohol education
- out-patient mental health
- house arrest
- alternative school

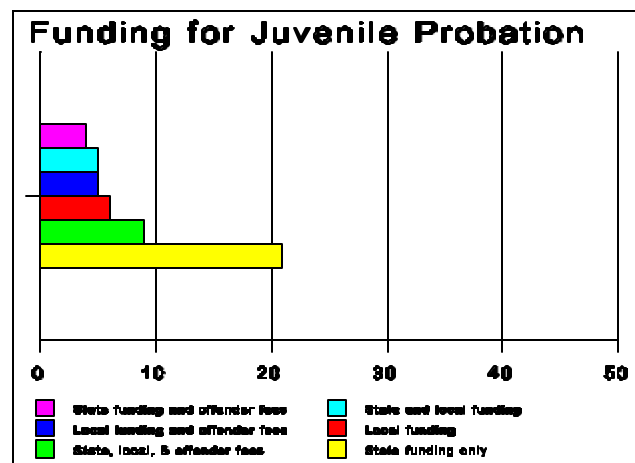
Suburban and urban areas tended to have even more services, with 75 percent of suburban administrators indicating crisis intervention and electronic monitoring programs were available and 75 percent of urban administrators reporting they had access to intensive probation and inpatient mental health programs (Torbet, 1999).

### **Funding for Juvenile Probation**

In 39 states (78%), juvenile probation agencies receive all or part of their funding from state appropriations. Figure 12 illustrates the various funding configurations used among the states. Most frequently, funding is through the state only (21 states/42%). Other funding patterns include:

- the combination of state and local funding and offender fees in nine states (18%),
- juvenile probation funded solely by local funds in six states (12%),
- five states (10%) that have local funding with offender fees,

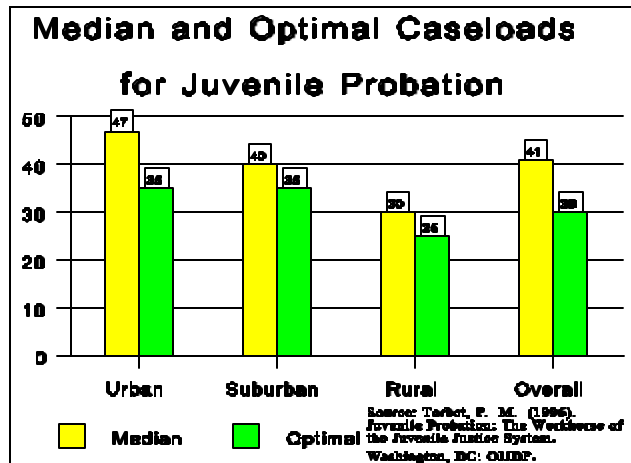
**Figure 12**



- five states (10%) that have a combination of state and local funding, and
- four states (8%) that rely on a combination of state and offender fees.

Table 9 in the Appendix provides information on specific states using each type of funding source.

Figure 13



## Juvenile Probation Caseloads

Consistent information for all states on juvenile probation caseload sizes is not available. However, a study reported in 1993 by the National Center for Juvenile Justice found that juvenile probation caseloads ranged from 2 to more than 200 cases, and the median caseload size was 41. In that study, there were substantial differences by location as shown in Figure

13. The median caseload size for urban localities was 47; in suburban settings, it was 40; and in rural areas, it was 30. When queried about what they thought optimal caseload sizes should be, respondents in urban and suburban areas thought they should be 35, and in rural areas, they felt 25 was the best size. The overall optimal caseload size was thought to be 30 (Torbet, 1996).

## Trends, Issues, and Problems

Juveniles and probation services have changed dramatically from the time of John Augustus' first efforts. At that time, juvenile probation efforts were at the forefront of justice reforms. Juvenile probation was in place in several states even before separate juvenile courts were initiated. However, today, juvenile probation looks more like a stepchild of the juvenile justice system. It neither looks like it did in the past nor appears to be headed for a status quo future. Much is happening, and these changes and trends, as well as identified problems and issues, need to be considered when modifying current organizations and practices or shaping new policies and programs.

It is difficult to identify, with certainty, the trends, issues, and problems presently confronting juvenile probation, because much needed information simply is not available. In recognition of this problem, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in partnership with the Bureau of the Census, plans a survey of juvenile probation that will be similar to data gathering efforts they already undertake on other components of the juvenile justice system. As described in a recent OJJDP publication, “few data exist on the use of this sanction, and no data exist on the number of juveniles under probation at any one time. This new survey will fill that gap” (pp. 13-14). The new survey is scheduled to be field tested in 2001 (OJJDP, 1999). Until such data become more readily available, juvenile probation professionals are left to draw on multiple resources that only partially answer questions, use anecdotal information that may not be generalizable across the country, and infer and interpret information from adult probation that also may be relevant to the juvenile field.

Among the many issues facing juvenile probation agencies across the country are (Torbet, 1996):

- the evolution of a mission and effective practices that respond to both juvenile offenders’ and communities’ needs,
- the challenges of working with growing caseloads, and
- resources that often are inadequate.

Each of these areas is described briefly below.

### ***Mission and Effective Practices***

Across the juvenile justice system, public and professional debates have been waging about the appropriate mission and role of juvenile justice. The pendulum of opinion has been vibrating between perspectives of retribution and rehabilitation, with several intermediate options being touted as well. Originally, the juvenile justice system was conceptualized as a significant departure from the adult criminal justice system through which juveniles would receive individualized responses designed to address their unique circumstances and developmental capacity. The juvenile justice system incorporated significant differences from its adult justice system counterpart, including a different language (e.g., delinquency rather than crimes, adjudication rather than trial, disposition rather than sentences), a lower standard of due process, less formal court proceedings, and separate juvenile laws. However, the shift toward more adult-like justice procedures is unmistakable. In recent years, the juvenile justice system has replaced much of its individualized intervention with a greater focus on public

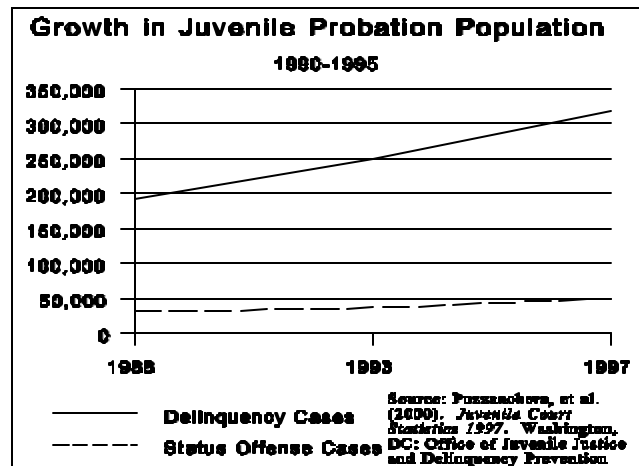
safety, offender accountability, waivers to criminal courts for older youth and more serious offenses, and sanctions more similar to those of adults. Many states have reduced the upper age limit for youth eligible to participate in the juvenile justice system, resulting, in several states, in youth ages 16 or older automatically coming under the influence of the adult justice system. Blended sentences and sentencing guidelines are other approaches intended to increase the range of punishment available for juvenile offenders. Strict confidentiality regarding juveniles also has diminished with a more punitive focus toward juvenile crime. Research about the effects of transferring youth to adult courts has generally found that juveniles convicted of violent offenses are more likely to be incarcerated in the adult system, but youths charged with property and drug offenses tend not to be sentenced as severely as the dispositions imposed by juvenile courts. These trends also have not proven to be more successful in deterring youth transferred to the adult justice system from committing further crimes, thus making the public safer. These trends have tended to make the juvenile justice system more similar in mission and practice to the criminal justice system (Butts & Mitchell, 1999).

These debates and trends have not been absent in the juvenile probation field. For many years, juvenile probation agencies have held varying viewpoints on whether juveniles should be punished or rehabilitated (or both). Several promising perspectives have come to the center of the discourse over the past two decades. Many of these, such as the balanced approach for juvenile probation -- that advocates a three-pronged mission of public protection, offender accountability, and youth competency development -- have blended and reconciled some of the differences in perspectives into a more comprehensive approach. Restorative justice proponents have also promoted greater involvement of victims, offenders, and the community in the juvenile justice process (Torbet, 1996). The juvenile probation field is now in the process of developing strategies for working with youth that will achieve the goals embodied in these perspectives.

## Juvenile Probation Population

Despite legislation and practices over the past decade that have supported a “get tough” approach to juvenile crime through institutionalizing juveniles or waiving them to adult criminal courts, juvenile probation populations have grown steadily. Figure 14 shows the increase in delinquency and status offense cases placed on formal probation between 1988 and 1997. The number of delinquency cases for which formal probation was the disposition increased 67 percent between 1988 and 1997. During the same period, the number of status offense cases placed on formal probation increased by 63 percent (Puzzanchera, 2000).

Figure 14



## Doing More with Less

Data on the cost of juvenile probation across the country is not available in a consistent format that allows for drawing conclusions. What is generally agreed, though, is that while the number of juveniles on probation has increased dramatically during the past decade (youth on probation comprise approximately 56 percent of delinquent youth who are sanctioned and 55 percent of status offender youth receiving sanctions), funding for juvenile probation has not kept pace with the growth in the number of juveniles placed on probation. As with the adult justice system, recent emphasis has been placed on increasing the capacity of detention and custody facilities for youth, and resources needed for community corrections often have been diverted elsewhere. Thus, not only is probation taking on greater numbers of offenders as well as those who present more significant risk to the community, but this part of the corrections system is doing so with resources that are declining each year relative to other corrections services.

## Other Issues and Problems

Over the past three years, probation leaders have been contemplating about and meeting to address concerns and problems evident in the probation system. While their focus has been probation in general, and not specific to juvenile probation, many of their concerns and recommendations are as relevant for juvenile as for adult probation.

The Reinventing Probation Council (2000b) has identified several reasons probation presently is not working as well as it should.<sup>1</sup>

### **Credibility and Confidence**

Although crime rates have fallen recently, the public's fear of crime appears to be high and confidence in the ability of the justice system to ensure public safety is in question (Reinventing Probation Council, 2000b). While this is not limited to probation, many feel probation services are too lenient on youthful offenders and fear that some offenders are too dangerous to be released in the community.

### **Poor Probationer Performance**

Although firm data about recidivism rates of juveniles placed on probation are difficult to find, there is general consensus that performance could be improved. Youth who continue in their delinquent behaviors have resulted in some of the criticism of the juvenile justice system and attempts to make it more like the adult system. Research has shown consistently, however, that a small group of juvenile offenders commit most of the crimes. Five percent of youth are responsible for more than half of all offenses and 83 percent of serious crimes (Snyder &

*Apparently, community supervision has been seen as a kind of elastic resource that could handle whatever numbers of offenders the system required*

Clear & Braga, 1995, p. 423

it is.

*. . . we believe that probation is at once the most troubled and the most promising part of America's criminal justice*

Reinventing Probation Council, 2000b, p. 1

---

<sup>1</sup> The background data and other information upon which the Reinventing Probation Council's recommendations were made were primarily for adult probation. Unfortunately, similar data is seldom available on juvenile probation. However, based on knowledge of the juvenile probation field, the same issues and problems appear to be pertinent to juvenile probation.



Sickmund, 1995). Tracking actual recidivism rates in a consistent manner among juvenile probation clients should be a goal for future research.

### ***Probation Supervision***

The Reinventing Probation Council (2000b) recognized that the enforcement of the conditions of probation often are sporadic and ineffective. Further, the Council found that probation too often does not succeed in helping offenders develop more prosocial lifestyles by discontinuing substance abuse, improving educational skills, and becoming productively employed.

The Council criticizes probation for its practices of “fortress probation” and passive case management. By delivering services primarily in probation office settings and not progressively and proactively pursuing information about offenders and responding to violations, the Council claims that probation “enables” noncompliance and criminal behavior by offenders.